DOCUMENT RESUME

ED 162 376 CS 502 297

AUTHOR Ferris, Charles D.
TITLE Statement of Charles D. Ferris, Chairman, Federal Communications Commission, on H.R. 13015, a Bill to Replace the Communications Act of 1934 with the "Communications Act of 1978" before the subcommittee on Communications of the House Committee on Interstate & Foreign Commerce, July 18, 1978.
PUB DATE 18 Jul 78
NOTE 21p.

EDRS PRICE MF-$0.83 HC-$1.67 Plus Postage.
DESCRIPTORS *Agency Role; Broadcast Industry; Cable Television; Citizen Participation; *Communications; Competition; *Federal Legislation; *Federal Regulation; *Policy Formation; Review (Reexamination); State Legislation; *Telecommunication
IDENTIFIERS Federal Communications Commission

ABSTRACT

H.R. 13015, the proposed revision of the Communications Act of 1934, is consistent in many aspects with Federal Communications Commission (FCC) trends toward greater reliance on marketplace forces than on regulation, but some portions of the bill should be reexamined before the final rewrite. First, the new bill would shift from a "public interest, convenience, and necessity" standard for policy making to one emphasizing the goal of regulating "to the extent marketplace forces are deficient." However, the bill should address more specifically when and what regulatory discretion is conferred on the FCC to deal with imperfections in certain markets. Second, H.R. 13015 proposes to shift spectrum allocation and policy making powers to a single Executive Branch administrator, a move that could seriously erode mechanisms created by Congress to insulate broadcasting from government control. Third, the bill precludes federal regulation of cable television but ignores potential state regulation that might frustrate the development of the benefits of competition. Finally, H.R. 13015 provides for public participation in communications regulation and policy making but should go even further by providing for reimbursement of expenses incurred by the public in directly participating in FCC proceedings. (GW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Charles D. Ferris

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC) AND USERS OF THE ERIC SYSTEM."

ED162376

STATEMENT OF CHARLES D. FERRIS, CHAIRMAN
FEDERAL COMMUNICATIONS COMMISSION
on H.R. 13015
A BILL TO REPLACE THE COMMUNICATIONS ACT OF 1934
WITH THE "COMMUNICATIONS ACT OF 1978"
Before the
Subcommittee on Communications
of the
House Committee on Interstate & Foreign Commerce

July 18, 1978

3130

Mr. Chairman, and members of the Subcommittee: Thank you for the opportunity to present my views on this proposed revision of the Communications Act of 1934.

I would like to state initially that the Commission as a whole has not yet had an opportunity to address H.R. 13015 and thus my testimony today reflects my own initial views and not necessarily those of the Commission. However, five other current FCC Commissioners are appearing with me today and will state their individual views.

I intend today to address only Titles I, II, V, and VII of the bill. I will discuss in my statement only the broadest themes of those titles which would restate the goals of communications regulation, restructure the functions and powers of the FCC (or its successor) and reallocate regulatory responsibilities in the telecommunications field between federal and state/local regulatory agencies.

In an appendix to my testimony (which will be supplied to the Subcommittee this week), I will include comments on some of the other portions of these titles that address details of Commission organization, conflict of interest, and budgetary and other procedural matters. It

CS502297

is my understanding that I will be invited to address the proposed revisions of substantive communications regulation when I testify in August during your hearings on Title III (Common Carrier) and in the Fall on Title IV (Broadcast).

First, I would like to commend you, Mr. Chairman, Mr. Frey, and the entire Subcommittee and its staff for undertaking your hearings over the past two years. These hearings have already stimulated a searching reevaluation of this nation's communications policy. The proposed rewrite of the Communications Act of 1934 introduced by you, Mr. Chairman and Mr. Frey last June 7, 1978, reflects the far-reaching, thorough, and thoughtful nature of this process.

I was pleased that the bill is consistent in many of its aspects with the significant trends of Commission policies of recent years, especially with Commission policies in the common carrier field. Moreover, I see no significant tensions between the basic objectives which underlie H.R. 13015 and many of my own views. As you are aware, I do favor greater reliance by the Commission on marketplace forces wherever feasible; and I particularly want to stress that the process that this Subcommittee is now engaged in complements the Commission's and my own commitment to taking a zero-based look at all the Commission's regulatory activities.

The bill has already had a salutary effect of accelerating that process. Each of the Commission's bureaus and offices has been asked to study and comment on the bill. This bill will require all of us -- Commission and staff -- to examine not only what the proposed new Communications Act would do, it will also require us to assess critically

how much flexibility there is under the 1934 Act to achieve the various policy goals articulated in H.R. 13015.

I believe that the process of internal regulatory reform and legislative review has been, and will continue to be, mutually reinforcing. The proposed bill provides us with an unusual opportunity to stand back from our present policies. While the process of reviewing of H.R. 13015 proceeds in the Congress, I believe the Commission should move ahead to revitalize the present regulatory scheme to the extent we can under the 1934 Act.

As we do this, we will be identifying particular areas of concern where we believe our existing statutory mandate is deficient. We intend to give these points special attention as we testify on the substantive portions of the bill this summer and fall, and during the continuing legislative process.

Turning now to Titles I, II, V, and VII of the bill, I have focused less on the structure than on the general nature and functions of the proposed Communications Regulatory Commission (CRC) and the National Telecommunications Agency (NTA). To some extent, these structural issues must await a fuller exploration of the substantive policy issues raised by H.R. 13015.

Any choice of institutional arrangements should flow from the communications policies which are adopted. The issue this Subcommittee and the FCC should be considering is not whether the FCC in its present form or structure should survive but what policies should be adopted and how should they be carried out -- whether by an independent regulatory agency, a policy-oriented executive branch agency, or a combination of

the two. Thus, I hope that the Subcommittee will be revisiting the institutional and structural issues after hearings on the substantive policy questions.

But having said this, I do want to agree with the wisdom of the Subcommittee's decision to begin with basic institutional issues. For they will provide a useful opportunity to explore broad policy issues underlying both H.R. 13015 and the existing Communications Act.

In my testimony this morning, I would like to discuss with you four main issues of special interest to me.

First, I would like to address the basic regulatory goals set forth in Section 101 of H.R. 13015 particularly as they compare with those in the present Act. Specifically, I want to focus on the implications of shifting from a "public interest, convenience and necessity standard" to one emphasizing the goal of regulating "to the extent marketplace forces are deficient."

Second, there is the general question of the proper allocation of regulatory and policy functions between independent regulatory and executive branch agencies. I will be addressing specifically H.R. 13015's proposal to separate spectrum allocation from spectrum licensing and to centralize allocation in an executive branch agency.

Third, my testimony will deal with the allocation of federal and state/local jurisdiction in the telecommunications field.

Finally, I want to stress the importance I attach to strengthening the role of public participation in the communications policy-making process.

REGULATORY GOALS AND STANDARDS

I turn first to the basic regulatory goals and standards embedded in H.R. 13015. The general goals of the proposed new Act are set forth in Section 101 of the bill which finds that regulation of interstate and foreign telecommunications is necessary "to the extent marketplace forces are deficient" to make available diverse, reliable, efficient, and affordable nationwide and worldwide telecommunications services.

The main difference between this section and Section 1 of the 1934 Act would be the specific Congressional directive to rely on competitive forces to achieve the bill's goals. Under the 1934 Act, the Commission has been able to rely on competition as an instrument of policy; but it has done so under the "public interest, convenience, and necessity standard."

This public interest standard is embedded in at least two significant provisions of the 1934 Act -- Section 309 of Title III and Section 214 of Title II. Both provisions -- one of which deals with radio licensing and the other with authorizations of lines of communications -- are basic elements of a regulatory scheme oriented toward control of entry into the broadcast and common carrier markets.

Under the "public interest standard", the Commission has taken into account antitrust-related and competitive factors in its decisions. When viewed cumulatively, these decisions reflect an increasing preference by the Commission to rely on competition, instead of more traditional licensing and entry controls, to achieve its basic regulatory goals. For example, in the broadcast field, the Commission

has increased competition by adopting newspaper-television cross-ownership, multiple-ownership, and prime time access rules. The Commission by these actions has sought to encourage diversity and choice of information and ideas for viewers and listeners. In the common carrier field, the Commission has adopted policies which have encouraged the competitive provision of private line and specialized common carrier services, domestic satellite facilities, and telephone equipment. It has allowed the resale of leased communications services and adopted other measures to use competition to achieve regulatory goals. In the common carrier area the thrust of policy has been toward increasing consumer choice and lowering prices charged for communications services. All these regulatory policies have resulted from a reasoned exercise of Commission discretion under a broad public interest standard.

H.R. 13015 would codify this recent trend of Commission regulatory determinations by shifting the central thrust of communications regulation away from reliance upon traditional regulatory tools such as licensing and entry control. Under H.R. 13015, however, the public interest, convenience and necessity standard entirely disappears as a standard for determining whether, what, or how to regulate. The decision on whether to regulate under the proposed bill turns basically on "whether marketplace forces are deficient."

This basic shift in regulatory standard is a very significant one indeed, as this Subcommittee is well aware. As you know, I am very much committed to <u>increasing</u> reliance on competition to achieve regulatory goals. I favor reducing the role of regulators, rules and regulation generally.

I am concerned, however, that any new legislative charter recognize that competitive forces do not work perfectly in many communications markets. These marketplace deficiencies are often apparent. For example, when measured against the highly diverse and competitive structure of the print medium, marketplace forces do not produce for television viewers and radio listeners the same richness of formats, ideas, and information now available through magazines, books and periodicals.

Consumer preferences in the electronic media will not be as well matched with the supply of information and ideas for some time to come. This "match" or "mismatch" differs now from market to market, and from industry to industry. In many radio markets, there is a real range of choice of programming and format for listeners; in others, there is not. Television viewers generally have fewer choices than radio listeners. In markets like New York and Los Angeles a relatively wide range of viewer preferences is met.

In the future the choice of television services will depend significantly on the development of new services and technologies. For example, cable and pay cable might offer new types of programming and direct satellite to home broadcasting, videocassettes or fiber optics could have enormous effects on the range of consumer choices. Under the proposed legislation these as yet uncertain developments might have a considerable impact on the marketplace and therefore on whether or not regulation is mandated.

My purpose is to underscore the point that regulatory intervention of some type is still very necessary when markets do not work properly.

One of the most notable areas of concern has been the failure of the market to assure that minorities and women achieve significant management positions in broadcasting. The Commission's active role in the EEO area during the renewal process is perhaps the best way that it now can encourage real diversity without content-related regulation.

Broadcasters have made progress in recent years in meeting their affirmative action obligations. But the job is not yet done. Until women and minorities have a far more significant employment and ownership foothold in broadcasting than they do now, it would be unwise to rely solely on the marketplace. This is just one example of why any rewrite should confer licensing discretion based on some public interest standard. There are other legitimate regulatory concerns in the broadcasting field, and the hearings on the broadcast title of this bill will provide further opportunity to discuss this issue.

These same general observations about the need for a clear, flexible mandate for regulatory intervention are, I believe, applicable to the common carrier title of H.R. 13015. Recent Commission common carrier policies as well as H.R. 13015 are premised on the view that traditional direct regulatory tools such as Section 214 entry determinations and rate regulation may be neither useful nor efficient in serving the public interest in certain communications markets.

The proposed bill -- very properly in my view -- allows the Commission to forbear altogether from regulating certain communications services. I think, however, that the bill needs to address more clearly and specifically when and what regulatory discretion is conferred on the Commission to deal with imperfections in certain markets. The

need for traditional or rate or entry regulation in the common carrier field may have substantially lessened; but I think it essential that a regulatory agency retain jurisdiction to set some of the "rules of the game" in the competitive marketplace. For example, the marketplace does not at present adequately deal with what economists call "externalities." One of today's principal concerns is with the privacy of communications. Present transmission systems are more vulnerable than earlier methods to wholesale interception, but at present the market may not guarantee as much freedom from eavesdropping as the public might like. Moreover, today's concern for privacy may be changed by the next generation of technology.

I think the general point is that competition is a useful and effective mechanism which can increasingly be relied on. But it is not an end in itself. It is a tool, a means to preserve and protect the public interest. As many communications markets do not work perfectly, there is a need to retain some regulatory tools.

A flexible mandate to regulate in the public interest is necessary to compensate for "marketplace imperfections." It is also needed to assure the fulfillment of the nation's broader expectations of its communication system -- i.e. that it provide for diversity of viewpoints, outlets for expression, the free flow of ideas, privacy of communications, the strengthening of the role of representative and participatory government, and significant employment and ownership opportunities for minorities.

Communications policy involves more than improving the efficiency of trade in important services. It deals with the most precious currency

of a free society and significantly affects every aspect of this nation's economic, social, and political affairs. The business of communications is too essential not to be the public's business.

It is very difficult to specify legislative solutions for specific industries or markets. The reason is, of course, that "deficiencies" vary from market to market and vary as technology changes. All communications markets are highly dynamic. And future "market deficiencies" -- or put another way, emerging areas of public concern -- cannot all be foreseen and predicted.

Any rewrite must have the 1934 Act's ability to be adapted to changing technology and market conditions. This is crucial if the proposed legislation is to be capable of solving the new problems of the 1980's and 1990's -- and not merely the problems we can clearly identify in 1978.

I think experience teaches that organic statutes, which are intended to be effective for an indefinite period, should contain broadly framed goals and standards. Thus I would recommend inclusion in any rewrite of a "public interest" standard, and along with it clear Congressional direction that the public interest is served by competition and diversity.

I recognize, of course, that a public interest standard is a double-edged policy instrument. Sometimes it has been used to encourage diversity and competition. But too often it has been misused to the detriment of these goals.

I believe that this useful and flexible policy instrument can and should be honed. The flexibility and discretion it conferred upon the Commission to protect the public interest must be retained. This can

be done consistent with the underlying policies of H.R. 13015.

The rate of change in the dynamic field of communication is likely to be exponential. It will severely test any new legislative framework. The benefits of a public interest standard can be preserved, I believe while preventing, through specific legislative directive, any potential misuse of the standard to limit diversity or to protect competitors instead of competition.

Since this is one of the broadest and most important issues raised by H.R. 13015 and one which pervades all aspects of the bill, I hope to amplify my views on it in subsequent hearings.

ALLOCATION OF REGULATORY AND POLICY FUNCTIONS BETWEEN AN INDEPENDENT REGULATORY AND EXECUTIVE BRANCH AGENCIES

The questions of what regulatory standard to apply and the overall role of regulation under the bill will have an obvious impact on the function, structure, and powers of the two new agencies proposed by H.R. 13015. The nature and extent of the CRC's regulatory powers will significantly influence, for example, its policy-related responsibilities. Thus, I want to turn next to H.R. 13015's division of regulatory and policy-related responsibilities between the two new proposed agencies.

I would like to address this matter first in general terms; and then I want to focus on it in a very specific context -- the allocation of spectrum and the bill's proposal to centralize this function in an Executive Branch agency.

First of all, I do not necessarily agree that policymaking is easily separated from regulation or that policymaking can be "put" in one agency and regulation in another. Policymaking often occurs as a

result of day-to-day regulation, either directly, as exemplified by the Commission's domestic satellite, specialized common carrier and interconnection decisions, or indirectly, as exemplified by the development of the body of precedent on the fairness doctrine. Policymaking divorced from the grist of the regulatory process may be unresponsive to current or developing needs or out of touch with "work-a-day" realities.

Second, policy issues will remain the same regardless of the structure of the regulatory process. Policymaking is inherently a difficult process; and communications policymaking is especially complex because the regulated industries are constantly changing, new technologies and services are evolving, and delicate First Amendment considerations must often be taken into account. Inherently complicated decisions are not necessarily made easier or better because of the regulatory structure chosen.

Centralization of communications policymaking responsibilities in a single Executive Branch administrator might result in faster and more decisive policymaking. But such centralization would raise, I think, important public policy concerns even assuming that a single administrator could, with relative dispatch, lay down clear policy that would decisively resolve even the most troublesome issues -- issues that would cause a collegial entity to engage in extended debate and compromise, and to limit its holding to the narrowest decisional grounds.

Professor Kenneth Culp Davis, an eminent authority on administrative law who has studied the role of a single administrator in the communications field, concluded that "clear policy" and "administrative efficiency" might be obtained but at a significant price. For example, he has raised the following questions: How long would policies made in

such a manner last? Would those on the losing side push their arguments into the political arena? Would "invisible" executive branch officials, using "invisible" procedures, make mysterious deals, bartering policy positions for political considerations, without evidence, without a record, and without even the pretense of reasoned opinions?

As another authority -- a very eminent and thoughtful executive branch policymaker known to us all -- has put it, shifting communications policymaking from the Commission to a single Executive Branch administrator could lead to "a rush to retain 'rainmakers' to influence the White House to, in turn, affect the administrator's decision -- as in the case of the award of overseas air routes." I share Henry Geller's belief that whatever problems the Commission experiences in policymaking "does not result from the collegial system and will not be cured by the one-man administrator."

It should be remembered that an independent multi-member regulatory agency such as the FCC functions as an arm of -- and with a special relationship to -- Congress. Thus, if and when the will of the Executive conflicts with the will of the Congress on issues of communications policy, the unique status of such an independent agency guarantees that if there is confrontation there will be discussion rather than resolution by executive fiat.

The questions raised by these points warrant serious consideration during hearings on H.R. 13015. They are especially important in the context of H.R. 13015's proposal to transfer the spectrum allocation and policymaking function from the Commission to a single Executive Branch administrator.

This proposal stems, I realize, from a valid concern about whether bifurcation of the spectrum allocation function between the Executive Branch and an independent regulatory agency works rationally and efficiently. As the Subcommittee is well aware, the Commission manages and is responsible for allocating the non-Government portion of the spectrum. The National Telecommunications Information Administration in the Department of Commerce, basically through IRAC, a consortium of Government users, is responsible for those portions of the spectrum set aside for Government use. The Commission is also responsible for overall communications policy-making while NTIA serves an advisory role in the policymaking process speaking for the Executive Branch.

Finding "duplication and lack of coordination in the policy-making efforts of various Government agencies," H.R. 13015 would transfer all spectrum allocation and communications policymaking functions to a National Telecommunications Agency. The bill recognizes, of course, that spectrum allocation and overall communications policymaking are inextricably related. In fact, the allocation of broadcast frequencies may be the Commission's most important function.

The Congress and other authorities on the regulatory process have long recognized the advantages of the independent multi-member agency -- with its internal checks and balances, its diversity of ideology, and its relative insulation from political and economic pressures -- in allocating spectrum and making communications policy. For example, in establishing the Federal Radio Commission in 1926, Congress declared that:

> the importance of radio, and particularly the probable influence it will develop to be in the social, political, and economic life of the American people, and the many new and complex problems its administration presents, demand that Congress establish an entirely independent body to take charge of the regulations of radio communication in all its forms. The exercise of this power is fraught with such great possibilities that it should not be entrusted to any one man nor to any administrative department of the Government. This regulatory power should be as free from political influence or arbitrary control as possible. (emphasis added)

The continuing validity of this judgment was reflected in the Ash Report issued in 1971. That report recommended that virtually all other independent regulatory agencies in the transportation, power, consumer protection and securities fields be transformed into Executive Branch agencies headed by single administrators responsible to the President. It concluded, however, that the Commission should retain its independent collegial status because its regulatory functions "intrinsically affect the free flow of information and ideas."

The electronic media continue to grow in importance. Because of this, it is essential that the statutory blueprint for future communications regulation be written so as to prevent governmental intrusion on our free society's right to disseminate and receive ideas. This is a matter of constitutional gravity, which demands the foresight that the drafters of the First Amendment brought to their task. They imposed fundamental barriers to the government's right to interfere with the right to publish. I think we have a similar obligation to strengthen -- and certainly not to weaken -- those barriers to governmental intrusion in the electronic medium.

I believe that the bill's proposal to shift spectrum allocation and policymaking powers to a single Executive Branch administrator could seriously erode mechanisms created by the Congress to insulate broadcasting from direct or indirect government control.

Presently, the Commission may only revoke a broadcast license after finding, based on an open record, that the licensee's performance has not met the public interest standard of the Act. Its decision is then subject to statutory judicial review. Under the bill's proposal, the Commission would retain its licensing function. But a single administrator of NTA under direction of a chief executive at some future time could use the broad powers conferred on NTA to revoke any broadcast license simply by withdrawing the spectrum allocation. The administrator could decide to take private frequencies to enlarge the Government's own share of the spectrum. It is not clear whether or in what manner such actions would be based on statutory standards or would be subject to judicial review.

While this may now seem like an unlikely scenario, you are drafting legislation for our children and our children's children. I think there is much to be said for now erecting formidable institutional barriers to protect the independence of the electronic media.

ALLOCATION OF FEDERAL AND STATE/LOCAL RESPONSIBILITIES

The third general issue I would like to address today is the appropriate allocation of federal and state/local jurisdiction, particularly in light of the bill's emphasis on the primacy of free marketplace regulation. The technological developments that have taken

place since 1934 have made increasingly difficult the drawing of rigid lines between purely local and purely interstate services. The distinctions in the 1934 Act between federal and state/local jurisdiction need to be revisited. These jurisdictional issues -- seemingly arcane and unrelated to the major policy issues in the bill -- warrant close attention in order to assure that emerging national telecommunications policies can be fully and effectively implemented.

These issues are of special importance in the common carrier field, as H.R. 13015 quite properly recognizes. The bill would alter the current balance between federal and state regulation in the common carrier area, allowing the Commission to determine which common carrier activities require Commission attention.

A different approach to jurisdictional questions is taken with respect to cable television. Cable television developed long after the 1934 Act was adopted. If cable television provides new services for the public it could have a significant impact on national telecommunications policies. It might even affect the extent of necessary broadcast regulation since under H.R. 13015 broadcast regulation is linked to the adequacy of marketplace forces to assure diversity of viewpoints.

H.R. 13015 would preclude federal cable regulation, presumably in order to stimulate new services. But the bill would not preempt non-federal cable regulation.

I do not want to discuss my views on the substantive question of cable deregulation, although I hope to return to that issue in later testimony. As I have stated, I do favor the thrust of allowing greater marketplace competition this bill embodies. I wonder, however,

whether it is consistent for the bill to endorse regulation by the marketplace and to deemphasize Commission regulation, while ignoring potential state regulation.

Removing regulatory restrictions will not necessarily be achieved by simply removing federal regulatory controls. If the desire is to reduce the degree to which workably competitive markets are subject to inefficient rate and entry controls, then the bill must preclude such controls from all potential sources. Rate and entry controls are inefficient when applied to workably competitive markets. Yet they serve the interests of certain groups. If the states are free to impose such regulations, the groups who would benefit will seek them. And severe controls in even a few critical states might frustrate the development of the benefits of competition sought by the bill.

In making these observations, in particular with respect to cable television, I do not mean to imply that non-federal authorities have no areas of legitimate regulatory concern. Nor am I addressing the differences in the types of regulation of cable that may or may not foster competition and diversity, such as our leased channels and public access requirements. I will return to this subject in my later testimony. I am simply emphasizing my view that the Congress cannot achieve its aim of letting competition serve as the primary regulatory mechanism simply by excluding only one possible source of regulation.

PUBLIC PARTICIPATION IN POLICY FORMULATION

I would like to discuss one final major issue concerning the titles of the bill before you today -- the objective of encouraging

more public participation in the process of communications regulation and policymaking. I strongly endorse H.R. 13015's inclusion of provisions relating to public participation. I believe the bill should go even further to promote this essential goal.

This goal is embodied in Section 215, which establishes an Office of Consumer Assistance within the CRC. This office is intended to represent the interests of consumers in Commission proceedings, assess consumer needs, participate in consumer education programs, and make recommendations to the Commission as to how regulatory programs should be developed to reflect consumer interests. It would not be a component of any larger office within the Commission but would be under the direct supervision of the Commission.

The Commission now has a Consumer Assistance Office with a similar mission. Over the past year we have moved to strengthen its capacity to respond to consumer needs. While the bill would change the office's placement within the Commission's internal structure, it basically codifies the office's present role.

I strongly support increasing the Commission's efforts to obtain the views of the public in our deliberations. The filings of industry parties alone often do not supply us with all the information and analysis we need to make our public interest determinations.

H.R. 13015 does not however -- as I believe it should -- provide for reimbursement of expenses incurred by the public in directly participating in Commission proceedings, particularly in the Commission's rulemaking actions. Explicit statutory language authorizing the Commission to establish such a reimbursement program would be consistent with previous

legislation such as the Magnuson-Moss Warranty-FTC Improvement Act. It would remove any uncertainty created by Greene County Planning Board v. FPC (2d Cir. 1977) about the Commission's authority to undertake such a program without specific congressional action.

I applaud the bill's proposals which seek to increase the public's access to and participation in communications policy formulation. This role for the public is not addressed in connection with the proposed Executive Branch agency. There is no reason to believe that such participation is only needed in independent agencies. Other Executive Branch agencies such as the Department of Transportation have started or are in the process of creating public participation reimbursement programs. Given NTA's proposed powers, it is perhaps even more necessary there.

Mr. Chairman, this concludes my statement. I want to thank you for this opportunity to express my initial views on these sections of the bill. I do want to stress that these are only my initial views, and I expect that all the members of the Commission will continue to refine and develop our views, particularly as your hearings progress.

I believe this process has been a very useful and constructive one. Without your efforts our own process of reexamining our goals, policies and methods might not have proceeded at its current pace. I look forward to returning to discuss with you other areas covered by this bill and to working closely with the Subcommittee in the future.